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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,488	08/13/2001	Didier Candau	016800-457	5299

7590 05/19/2003

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EXAMINER

LAMM, MARINA

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 05/19/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/927,488

Applicant(s)

CANDAU, DIDIER

Examiner

Marina Lamm

Art Unit

1616

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 30 April 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): Obviousness-type double patenting rejection over US 6,251,373.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


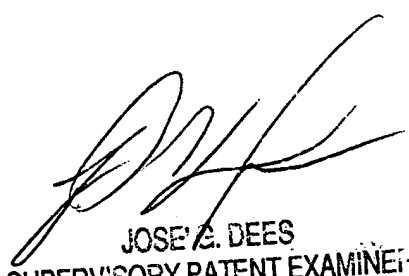
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-4, 6-13 and 15-31.Claim(s) withdrawn from consideration: 5 and 14.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

Continuation of 5. does NOT place the application in condition for allowance because: the request for reconsideration has been considered up to the showing of unexpected results (pp.1-4). The showing of unexpected results has not been considered because it is submitted in improper format (i.e. as a part of the response rather than in the form of a Declaration). Even if the showing is submitted in the form of a Declaration, it will not, at this time, be entered because it is untimely. In response to the Applicant's arguments, it is noted that Hansenne teaches that the sunscreen compositions according to her invention may contain triazine derivatives in addition to the synergistic mixture of benzotriazole-substituted silicone compounds and sulfonic/benzimidazole compounds. See col. 7, lines 9-13 and 16. Therefore, the reference considered as a whole, suggests the desirability and thus the obviousness of combining the synergistic mixture of benzotriazole-substituted silicone compounds and sulfonic/benzimidazole compounds with triazine derivatives. The triazine derivatives of the instant claims are well known in the art of sunscreen compositions. See Huglin et al. Thus, it would have been obvious to one having ordinary skill in the art at the time the claimed invention was made to use bis-resorcinyltriazine of Huglin et al. for cosmetic sunscreen compositions of Hansenne for its art-recognized purpose and with a reasonable expectation of deriving the same cosmetic effect as set forth in the Hansenne reference. With respect to the Allard reference, it explicitly teaches compositions containing a 1,3,5-triazine derivative and a silicone compound containing benzotriazole substitution. See Abstract. While the 1,3,5-triazine derivatives of Allard et al. are different from the Applicant's elected species of triazines, they are structurally similar and used for the same art-recognized purpose. Therefore, it would have been obvious to one having ordinary skill in the art at the time the claimed invention was made to use bis-resorcinyltriazine of Huglin et al. for cosmetic sunscreen compositions of Allard et al. for its art-recognized purpose and with a reasonable expectation of deriving the same cosmetic effect as set forth in the Allard reference. .


9/13/09
JOSE A. DEES
SUPERVISORY PATENT EXAMINER
1616